THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

+ Writ Petition No.21764 of 1996

% Dated 27.11.2007

Smt. S.Muni Venktamma.

....Petitioner

$ The Commissioner of Survey and Settlements and others.

....Respondents

! Counsel for the petitioner : Sri Y.Narasimha Reddy
^ Counsel for respondents : Government Pleader for Revenue

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? Cases referred:

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WRIT PETITION No.21764 of 1996

Date: 27.11.2007

Between:

Smt. S.Muni Venkatamma.

....Petitioner

And

The Commissioner of Survey and Settlements and others.

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.21764 of 1996

ORDER:

The matter arises under the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion Into Ryotwari) Act, 1948 (for short 'the Act'). The original petitioner, by name Muni Venkatamma, filed a petition before the Settlement Officer, Nellore, under Section 11 of the Act. She pleaded that her grand father was granted patta by the erstwhile Zamindar of Punaganur, in respect of Ac.10.24 cents in Survey No.413 of Royalpeta Village on 01.12.1942 and ever since, her predecessors in title and herself are in possession and enjoyment of the same. She filed the cist receipts and a rough patta granted in respect of the said land along with certain other documents. The Estate Officer took up the enquiry and through his order, dated 25.07.1974, the Settlement Officer rejected the claim of the petitioner, on the ground that her possession was not reflected in the subsequent adangal of the year 1355 Fasli. A finding was recorded to the effect that the rough patta relied upon by the petitioner, which is marked as Ex.P.4 is spurious.

The petitioner filed a revision before the Director of Settlement, the 2nd respondent. The revision was allowed through the order, dated 03.03.1976, by observing that as long as the rough patta was in force, it cannot be ignored. Certain other observations are also made.

The District Collector, 3rd respondent herein carried the matter in a further revision, to the 1st respondent. The revision was allowed on 17.12.1979. Thereupon, the petitioner filed W.P.No.1708 of 1980. The writ petition was allowed on 13.01.1986 and the matter was remanded to the 1st respondent for fresh consideration. On such remand, the 1st respondent passed an order, dated 27.07.1996 affirming earlier view. Hence, this writ petition.

Sri Y.Narasimha Reddy, the learned counsel for the petitioner submits that substantive rights have accrued to the petitioner under the rough patta granted by the competent authority under the Act and there was no basis for the 1st respondent to ignore the same. He contends that if the rough patta suffered from any irregularities or infirmities, the only course open to the authorities was to issue notice and to cancel the same, duly furnishing the reasons. He further contends that the findings recorded by the Settlement Officer as to possession over the

property were totally untenable. He also submits that the mere fact that the rejection of an application filed by the land holder under Section 15 of the Act cannot constitute the basis for rejection of the application of the petitioner under Section 11 of the Act.

Learned Government Pleader for Revenue, on the other hand, submits that the Settlement Officer as well as the 1st respondent have assigned cogent reasons for rejection of the claim of the petitioner and no interference is warranted. He contends that the petitioner miserably failed to prove her possession over the land as on the notified date. He also submits that Ex.P.4 did not conform to the relevant records.

The Act provides for various consequences that follow the abolition of an estate and prescribes the procedure to be followed in the matter of granting pattas or vesting of the land in the Government. Section 3 of the Act enlists the consequences that would flow from the publication of a notice, abolishing the estate. Proviso thereof directs that even after the abolition of an estate, a person, who is in possession of the land, shall not be dispossessed, if he is *prima facie* entitled for patta. It is in this context, that rough pattas are granted to the persons in possession of the lands, which hitherto have been part of an estate, so that the same can be taken into account, during the course of enquiry under Section 11 of the Act.

The petitioner was granted rough patta No.55 and the same was marked as Ex.P.4 before the Settlement Officer. Except making an observation that the rough patta was spurious, it was not indicted as to how it does not carry the necessary presumption or give raise to the rights under the Act. Though it is called a rough patta, it *prima facie* recognizes the rights of an individual to be granted ryotwari patta. It constitutes a valid basis for the enquiry under Section 11-A of the Act. An important document like that can be ignored, if only it is set aside in accordance with law. There is nothing on record to disclose that the rough patta issued to the petitioner was either cancelled or set aside, by issuing any show cause notice. Hence, there was no basis for the Settlement Officer or the 1st respondent in treating the rough patta as having been cancelled. The 2nd respondent has taken a correct and proper view.

The other ground, on which the claim of the petitioner was rejected, was that the application made by the land holder under Section 15 of the Act in respect of the same land was rejected. Even if that be so, it cannot constitute the ground to reject the claim of the petitioner. It is not uncommon that the applications under Section 11 on the one hand and Section 15 on the other, are made in respect of one and the same land. The parameters for consideration thereof are totally different. Rejection of the application under one provision cannot by itself warrant the rejection of the application under the other provision. Therefore, the whole approach of the Settlement Officer and the 1st respondent, in the matter, was contrary to the settled principles of law.

Hence, the Writ Petition is allowed and the impugned order is set aside. Consequently, the order, dated 03.03.1996, passed by the Director of Settlement, 2nd respondent herein, shall remain in force. There shall be no order as to costs.

27.11.2007

Note: L.R.copy to be marked.

(B/o)
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